

1 AN ORDINANCE OF THE BOARD OF COUNTY
2 COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA,
3 AMENDING CHAPTER 17, ARTICLE VI OF THE CODE OF
4 LAWS AND ORDINANCES OF PALM BEACH COUNTY (the
5 "PALM BEACH COUNTY PUBLIC SERVICE TAX
6 ORDINANCE"); AMENDING SECTION 17-225 "DUTY OF
7 SELLER AS TO COLLECTION OF TAX; LIABILITY FOR
8 FAILURE TO COLLECT"; AMENDING SECTION 17-230
9 "PENALTY FOR VIOLATION"; PROVIDING FOR
10 INCLUSION IN THE CODE OF LAWS AND ORDINANCES;
11 PROVIDING FOR SEVERABILITY; PROVIDING FOR AN
12 EFFECTIVE DATE.

13 WHEREAS, the Board of County Commissioners enacted the
14 "Palm Beach County Public Service Tax Ordinance" (Ordinance No. 89-
15 13 as amended by Ordinance 98-6) (codified at Chapter 17, Article VI
16 of the Palm Beach County Code of Laws and Ordinances), which
17 provides for the levy of tax on utilities and telecommunications
18 service; and

19 WHEREAS, the Board of County Commissioners desires to
20 provide for interest and penalties as allowed by Sec. 166.234(7),
21 Fla. Stat. (1997) for failure to pay any tax when due or to file any
22 required return.

23 NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY
24 COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA that:

25 SECTION 1. Chapter 17, Article VI, Section 17-225 of the Palm
26 Beach County Code of Laws and Ordinances is amended as follows:

27 Sec. 17-225. Duty of seller as to collection of tax;
28 liability for failure to collect.

29 (e) Interest shall be assessed, for failure to pay any
30 tax when due or to file any required return, at a rate of 1 percent
31 per month of the delinquent tax from the date the tax was due until
32 paid.

33 (f) Penalties shall be assessed upon a determination by
34 a hearing officer appointed by the Board of County Commissioners
35 that willful neglect, willful negligence or fraud was present

1 regarding the failure to pay any tax due or to file any required
2 return.

3 (g) Penalties shall be assessed at a rate of 5 percent per
4 month of the delinquent tax, not to exceed a total penalty of 25
5 percent. In no event shall the penalty for failure to file a return
6 be less than \$15.00.

7 (h) In the event the hearing officer determines that a
8 fraudulent return has been filed or that a seller has willfully
9 attempted to evade payment of the tax, the seller making such
10 fraudulent return or willfully attempting to evade payment of the
11 tax shall be liable for a specific penalty of 100 percent of the
12 tax.

13 (I) Interest and penalties shall be computed on the net
14 tax due after application of any overpayment and are subject to
15 compromise as provided by Sec. 166.234(14), Fla. Stat.(1997), as
16 amended from time to time.

17 (j) Appeal of any determination regarding interest and
18 penalties assessed by the County pursuant to this ordinance shall
19 be made by filing an action in circuit court as provided in Sec.
20 166.234(12), Fla. Stat.(1997), as amended from time to time.

21 **SECTION 3.** Chapter 17, Article VI, Section 17-230 of the Palm
22 Beach County Code of Laws and Ordinances is amended as follows:
23 Any purchaser willfully failing or refusing to pay the tax imposed
24 by this article, where the seller has not elected to assume and pay
25 such tax, and any seller violating the provisions of this article,
26 or any officer, agent or employee of any seller violating the
27 provisions of this article may be punished as provided in section
28 1-11. The county may further bring suit to restrain, enjoin or
29 otherwise prevent the violation of this article and shall be
30 entitled to reasonable attorney's fees if it prevails in such suit.
31 The penalties referenced in this section are supplementary to and
32 in addition to the penalties set forth in section 17-225. The

1 County retains the discretion to enforce this ordinance in any
2 manner authorized by law or ordinance.

3 **SECTION 3. SEVERABILITY**

4 If any section, subsection, sentence, clause, phrase or portion of
5 this ordinance is held to be invalid or unconstitutional by any
6 court of competent jurisdiction, said holding shall in no way
7 affect the validity of the remaining portions of this ordinance.

8 **SECTION 4. INCLUSION IN THE CODE OF LAWS AND ORDINANCES**

9 The provisions of this Ordinance shall become and be made a part of
10 the Code of Laws and Ordinances of Palm Beach County, Florida. The
11 sections of this Ordinance may be renumbered or relettered to
12 accomplish such, and the word "ordinance" may be changed to
13 "section", "article", or other appropriate word.

14 **SECTION 5. EFFECTIVE DATE**

15 The provisions of this Ordinance shall become effective upon filing
16 with the Department of State.

17 **APPROVED AND ADOPTED** by the Board of County Commissioners
18 of Palm Beach County, Florida, on the 23 day of February,
19 1999.

20 PALM BEACH COUNTY, FLORIDA, BY ITS
21 BOARD OF COUNTY COMMISSIONERS

22 By: Mauda Ford Lee
23 Chair

24 APPROVED AS TO FORM AND
25 LEGAL SUFFICIENCY

26 Paul F. Lee
27 COUNTY ATTORNEY

DOROTHY H. WILKEN, CLERK
Board of County Commissioners
By: Linda C. Hickman
DEPUTY CLERK

28 **EFFECTIVE DATE:** Filed with the Department of State on the
29 3rd day of March, 1999.

STATE OF FLORIDA, COUNTY OF PALM BEACH
I, DOROTHY H. WILKEN, Clerk of the
Board of County Commissioners, do hereby
file and certify the foregoing Ordinance and
on 2/23/99
DATED at West Palm Beach, FL on 3/1/99
DOROTHY H. WILKEN, Clerk
By: Phyllis A. House